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11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
13

14 In Re WAL-MART STORES, INC.
15 WAGE AND HOUR LITIGATION

Case No. C 06 02069 SBA

CLASS ACTION

**EXHIBIT 2 TO MOTION FOR AWARD OF
INCENTIVE PAYMENTS TO PLAINTIFFS'
AND AWARD OF ATTORNEYS' FEES AND
COSTS**

17 This Document Relates To:

18 Case Nos.

19 C 06 02069 SBA (Smith) and
20 CV 06 05411 SBA (Ballard)

Judge: Hon. Sandra B. Armstrong
Date: September 28, 2010
Time: 1:00 p.m.
Location: Courtroom 1, 4th Floor

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28 Exhibit 2 to Motion for Award of Incentive Payments to Plaintiffs,
and for Award of Attorneys' Fees and Costs

Case No. C 06 02069 SBA

ADDITIONAL PLAINTIFFS' COUNSEL

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In Re WAL-MART STORES, INC. WAGE AND HOUR LITIGATION

Case No. C 06 02069 SBA

Time & Task Chart

Legend: M&S	=	Marlin & Saltzman, LLP	SDB	=	Schwartz, Daniels & Bradley, LLP
HART	=	Law Office of Peter Hart	BP	=	Bailey Pinney PC

CATEGORY/Task	M&S	SDB	HART	BP
1. PRE-FILING - Northern District (<i>Smith v. Wal-Mart</i>)				
Initial client interviews including interviews with Barry Smith and Michael Wiggins; Review documents provided by clients; Discussed filing with California Labor Board;	0	0	0	6.5
Research regarding client's claims regarding wage and hour violations in California; Research other Wal-Mart("WM") class actions in California including status of <i>Savaglio v. WM</i> ; Review <i>Savaglio</i> file; Research Private Attorney General Act violations and provisions of DLSE, Business & Professions Code 17200; Research "off-the-clock" law in California; Research violations of <i>Labor Code</i> section 203.	0	0	0	27.5
Further client interviews to discuss status of case; Speak with additional witnesses and potential class representatives; Preparation of witness questionnaire regarding claims.	0	0	0	3.3
Investigate other matters pending against WM throughout the country; Review selected documents in those cases.	0	0	0	11.0
Review documents, including internet search, regarding Department of Labor investigations of WM wage and hour violations.	0	0	0	11.7
Draft PAGA notice to Labor Workforce and Development Agency, Wal-Mart and its counsel. Preparation of multiple correspondence to LWDA re labor code violations; Review correspondence from LWDA re same.	0	0	0	5.3
Sub-total	0	0	0	48.3

CATEGORY/Task	M&S	SDB	HART	BP
2. PRE-FILING - Central District (<i>Ballard v. Wal-Mart</i>)				
Initial client interview including teleconference with Danton Ballard regarding his recent termination and potential claims against WM; Review e-mails from Ballard re same; Review documents provided by Ballard including documents regarding individual discrimination claims and paystubs violations; Further review of Ballard documents focusing on paystubs and final payout documents.	0	0	8.2	0
Research regarding Ballard claims, review discrimination claims and filing with DFEH and , EEOC; Research regarding wage and hour claims and class claims and conflict issues; Research WM class actions in California. Research status of <i>Dukes v. WM</i> and <i>Savaglio v. WM.</i> ; Research WM class actions around nation and individual actions around nation; Review WM websites regarding pending litigation and litigation practices.	0	0	18.0	0
Teleconference with Ballard regarding his claims, further information regarding wage and hour claims and vacation issues; Teleconference with additional potential class representative regarding termination and potential claims, including gender discrimination claims and wage and hour claims.	0	0	3.2	0
Travel to Colton, CA and meet Ballard and review documents he provided; Further review of additional documents Ballard produced at in-person meeting.	0	0	9.5	0
Further research re. and draft DFEH complaint on behalf of Ballard and review with client.	0	0	8.5	0
Travel to meet additional potential claimants to discuss claims and review documents; Review documents, including pay records, time sheets, and personnel documents.	0	0	8.6	0
Teleconference with Nathan Lyons regarding termination and potential wage and hour claims; Review documents provided by Lyons including analysis of paystubs.	0	0	6.5	0
Travel to Northridge, CA to meet with Lyons regarding his claims and review of further documents with Lyons; Review documents including WM Associate Employee Handbook.	0	0	9.0	0

CATEGORY/Task	M&S	SDB	HART	BP
Research regarding wage and hour claims and potential class action claims of Ballard, Lyons and additional potential class representative.	0	0	8.5	0
Pull entire file on <i>Savaglio v. WM</i> and <i>Dukes v. WM</i> ; Review of same.	0	0	35.0	0
Research regarding conflicts with individual claims and class cases and the pleading both in one complaint.	0	0	15.5	0
Sub-total	0	0	130.5	0
3. INITIAL PLEADINGS - Northern District (<i>Smith v. Wal-Mart</i>)				
Preparation of multiple drafts and extensive revisions to Complaint; Preparation of Complaint for filing;	0	0	0	8.0
Review ADR scheduling Order and Notice of Case Management Conference; Research local rules of CAND; Review Judge Armstrong's Standing Order.	0	0	0	2.5
Research procedure of admission to Federal Court in California; Move to admit counsel <i>pro hac vice</i> ; Review Orders granting admission.	0	0	0	2.0
Research wage statement violations pursuant to <i>Labor Code</i> section 226; Draft and file Amended Complaint to include additional causes of action.	0	0	0	6.5
Review and analysis of Answer filed by WM.	0	0	0	3.0
Legal research re: potential motion to strike defendant's affirmative defenses.	0	0	0	9.8
Prepare, serve and file motion to strike defendant's affirmative defenses.	0	0	0	12.5
Review and analyze defendant's Opposition to Motion to Strike Affirmative Defenses; Preparation of Reply to same.	0	0	0	9.2
Research, serve and file points and authorities and declarations in opposition to defendant's motion for relief from initial case management schedule	0	0	0	6.5
Preparation of Stipulation regarding Motion to Strike Affirmative Defenses;	0	0	0	1.2

CATEGORY/Task	M&S	SDB	HART	BP
Review WM's Motion for Administrative Relief from Case Management Schedule; Review Declaration of defense counsel and attached exhibits; Review revised Case Management Schedule; Prepare Opposition to Motion for Administrative Relief from Case Management Schedule; Review Defendant's Reply to opposition;; Review Order denying Motion.	0	0	0	6.3
Meet with defense counsel regarding Joint Case Management Statement; Preparation of Joint Case Management Statement.	0	0	0	3.5
Preparation of Report of Rule 26(f) Planning Meeting; Review Order re same; Preparation of disclosures.	0	0	0	6.0
Preparation and receipt of multiple correspondence regarding motion to relate cases; Multiple telephonic conferences re same; Review and analyze defendant's motion to relate <i>Ballard v. Wal-Mart</i> pending in Central District of California.	0	0	0	3.5
Prepare response in support of defendant's Motion to Relate <i>Ballard v. Wal-Mart</i> .	0	0	0	1.8
Review Order Relating <i>Ballard v. Wal-Mart</i> to <i>Smith v. Wal-Mart</i> .	0	0	0	0.3
Sub-total	0	0	0	82.6
4. INITIAL PLEADINGS - Central District (<i>Ballard v. Wal-Mart</i>)				
Draft complaint including multiple versions that included individual claims; Research venue, complaint supporting documents, complex designation and post-filing complex designation; Finalize Complaint; Draft and finalize supporting documents; Preparation of Complaint and Summons for filing in Los Angeles County Superior Court.	0	0	14.5	0
Research removal to CACD under CAFA and possible remand to Los Angeles County Superior Court.	0	0	4.5	0
Review Answer to Complaint.	0	0	2.0	0
Review ADR scheduling Order and Notice of Case Management Conference; Research assigned judge; Research local rules of CACD; Review Standing Order.	0	0	1.8	0

CATEGORY/Task	M&S	SDB	HART	BP
Review, analyze and research motion to transfer case to Northern District; Review Notice of Motion and Motion to Transfer filed by WM. Research regarding transfer; Draft of opposition to motion.	3.0	4.5	6.3	0
Negotiate and stipulate to transfer of matter to Northern District; Research regarding Transfer/Venue/Consolidation/Coordination of multiple actions; Research regarding MDL actions/proceedings.	1.5	2.5	3.5	0
Review of transfer Order to CAND; Review ADR scheduling Order and Notice of Case Management Conference; Research assigned judge; Research local rules of CAND; Review Standing Order.	2.0	3.0	3.0	0
Review Order Relating <i>Ballard v. Wal-Mart</i> to <i>Smith v. Wal-Mart</i> , and issues raised	0.8	1.5	1.2	0
Research regarding claims in <i>Smith v. Wal-Mart</i> ; Review docket in <i>Smith v. Wal-Mart</i> ; Analyze potential overlapping claims and damages in both cases.	3.5	4.0	5.7	0
Sub-total	10.8	15.5	42.5	0
5. ASSOCIATION OF COUNSEL AND COORDINATION PLANNING BY ALL PLAINTIFFS' COUNSEL				
Attendance at initial meeting between Peter Hart and Marlin & Saltzman and Schwartz, Daniels & Bradley to discuss potential association of counsel.	4.5	4.5	7.0	0
Preparation of lengthy memo regarding status of litigation and analysis of documents prepared for Marlin & Saltzman and Schwartz, Daniels & Bradley in furtherance of their association of counsel.	0	0	4.8	0
Multiple correspondence, telephonic conferences and in-person meetings to discuss claims and discovery conducted to date; Review by Marlin & Saltzman and Schwartz, Daniels & Bradley of all documents produced to date; Review of docket entries.	10.5	15.0	7.3	0

CATEGORY/Task	M&S	SDB	HART	BP
Travel to and from Orange County for meeting with counsel for <i>Ballard v. Wal-Mart</i> and <i>Smith v. Wal-Mart</i> to discuss potential coordination and consolidation of cases; Preparation for and attendance at meeting of counsel. (2 M & S partners plus 2 BP partners)	25.0	17.5	8.5	32.0
Meet with clients to obtain approval of plan for coordinated prosecution of action	0	0	5.5	4.5
Telephonic conferences re: agreements concerning responsibilities of various plaintiffs' firms	3.2	2.5	2.5	3.2
Sub-total	43.2	39.5	35.6	39.7
6. COORDINATED/CONSOLIDATED PLEADINGS				
Negotiation and preparation of Stipulation to remove related cases from court-sponsored mediation for private mediation	3.5	0	1.0	2.0
Negotiation and preparation of Stipulation to consolidate cases and agreement to file Consolidated Class Action Complaint.	2.5	3.0	0	1.3
Further investigation of facts and law in preparation of drafting of Consolidated Class Action Complaint.	23.4	35.0	12.5	4.5
Draft proposed Consolidated Class Action Complaint.	10.5	14.2	4.0	2.5
Review and comment upon draft of proposed Consolidated Class Action Complaint.	1.0	1.5	1.3	1.8
Prepare final version of Consolidated Class Action Complaint.	4.0	0	0	0
Review Stipulation and Order for Substitution of Counsel; Investigation regarding new defense counsel including review of various dockets in cases new counsel defending; Telephonic conference with new defense counsel;	1.8	0.5	0.5	0.2
Review, analyze and conduct legal research re: Defendant's Motion to Dismiss and Motion to Strike	8.5	5.0	4.4	1.4
Prepare proposed First Amended Consolidated Class Action Complaint.	3.5	1.0	0	0
Negotiate Stipulation and Order for filing of First Amended Consolidated Class Action Complaint.	2.0	3.2	0	0

CATEGORY/Task	M&S	SDB	HART	BP
Review, analyze and conduct legal research re: defendant's second Motion to Dismiss and Motion to Strike Amended Consolidated Complaint.	13.7	15.0	3.0	1.5
Prepare Opposition to Motion to Dismiss and Motion to Strike Amended Consolidated Complaint.	4.5	12.0	0	0
Review draft Opposition to Motion to Dismiss and Motion to Strike Amended Consolidated Complaint.	3.7	0	2.4	1.4
Prepare final version of Opposition to Motion to Dismiss and Motion to Strike Amended Consolidated Complaint.	0	5.0	0	0
Review and analyze Defendant's Reply to Opposition to Motion to Dismiss and Motion to Strike Amended Consolidated Complaint.	3.7	8.0	3.5	2.5
Prepare for hearing on Defendant's Motion to Dismiss and Motion to Strike Amended Consolidated Complaint.	5.5	5.5	0	0
Review and analyze Order denying in part and granting in part Motion to Dismiss and Motion to Strike Amended Consolidated Complaint with leave to amend	1.4	2.9	2.0	1.0
Meet and confer with plaintiffs' counsel re: existence or non-existence of facts to support further amendment to Consolidated Complaint in connection with matters stricken.	2.5	2.5	2.5	1.0
Negotiate and execute stipulation to extend time for defendant to file Answer.	0	1.0	0	0
Negotiate and execute stipulation with defense counsel to dismiss third cause of action and to strike allegations related to that cause of action only.	1.3	2.5	0	0
Review and analyze defendant's answer and amended answer to First Amended Consolidated Complaint.	1.0	1.8	1.0	0.5
Review Order referring case to magistrate judge for discovery purposes; Review Initial Discovery Order from Magistrate Judge Bernard Zimmerman.	0.4	0.6	0	0
Negotiation and preparation of Amended Case Management Scheduling Order;	0	1.6	0	0
Negotiation and preparation of Stipulation re Extension of Time for Defendant to File Answer to Consolidated Amended Complaint.	0	0.8	0	0
Sub-total	98.4	122.6	38.1	21.6

CATEGORY/Task	M&S	SDB	HART	BP
7. INITIAL NON-CONTENTIOUS AND/OR INFORMAL WRITTEN DISCOVERY OBTAINED IN CONNECTION WITH EARLY MEDIATION ATTEMPT				
Preparation of correspondence to defense counsel detailing 33 separate categories of documents to be produced by defendant in order for plaintiffs to agree to participate in connection with early mediation	6.5	4.0	2.4	0
Prepare initial detailed Request for Production of Documents.	8.0	12.5	6.4	2.4
Detailed review and analysis of 328 pages of documents produced by defendant concerning policies and procedures for final payment to terminating class members. Preparation of memo regarding review.	8.5	25.5	18.4	3.5
Negotiate with defense counsel for sample production of electronic payroll data from 33 randomly selected stores in California for use by plaintiffs in connection with early attempt at mediation.	2.0	0	0	0
Review and detailed analysis of payroll data from 33 sample stores to be used in connection with mediation, including coordination of analysis of data by plaintiffs' expert, Martin Shapiro, Ph.D.	55.5	52.4	12.5	0
Review of additional voluntarily produced documents concerning final payout procedures for use at mediation.	30.0	25.0	7.5	2.0
Review and analysis of documents produced by defendant concerning each of the proposed representative plaintiffs, including detailed compensation histories.	4.5	7.0	4.7	4.0
Review and analysis of documents produced for mediation regarding editing and finalizing the final payout to terminating employees.	22.4	52.0	17.0	8.5
Review and analysis of earned vacation pay and vacation payout for 33 sample stores; coordination of analysis of same with plaintiffs' expert.	40.5	28.7	22.3	4.0
Review and analysis of earned regular pay and regular pay payout for 33 sample stores; coordination of analysis of same with plaintiffs' expert.	12.5	15.3	8.7	2.0

CATEGORY/Task	M&S	SDB	HART	BP
Year by year analysis of vacation pay policies concerning the earning of vacation pay by hourly employees during the class period based upon additional year by year vacation pay policy documents produced.	6.5	6.5	8.5	2.0
Negotiate with defense counsel to permit Dr. Shapiro to use data obtained in <i>Savaglio</i> matter in connection with his preparation of estimates and analysis to be used for mediation.	1.4	1.4	0	0
Negotiate continuance of date for early mediation in light of need by defendant for additional time to produce agreed upon data, including PeopleSoft and Associate Data databases.	0.4	0.4	0	0
Sub-total	198.7	230.7	108.4	28.4
8. EARLY INVESTIGATION F.R.C.P. 30(B)(6) DEPOSITIONS				
Prepare relevant 30(b)(6) notices, including accompanying Request for Production of Documents.	5.7	4.3	2.0	2.0
Meet and confer with defense counsel re: production of witnesses to meet 30(b)(6) categories.	1.0	1.5	0	0
Travel to Bentonville, Arkansas on July 5, 2006 for deposition of Diana McChristian returning July7, 2006. (2 attorneys)	0	0	0	32.0
Prepare for and conduct deposition of Diana McChristian (volume 1).	0	0	0	15.0
Prepare page line summary of volume 1 of McChristian deposition.	0	0	0	6.5
Travel to Bentonville, Arkansas on March 27, 2007 for deposition of Cleo Wright returning March 29, 2007.(2 attorneys)	18	18	0	0
Prepare for, and conduct deposition of Cleo Wright.	14	12	0	0
Prepare page line summary of deposition of Cleo Wright.	4.5	0	0	0
Travel to Bentonville, Arkansas on April 2, 2007 for depositions of Roxie Wigger, Diana McChristian and Greg Campbell returning April 6, 2007. (3 attorneys)	16	16	16	0
Prepare for, and conduct deposition of Roxie Wigger.	12	15	15	0

CATEGORY/Task	M&S	SDB	HART	BP
Prepare page line summary of deposition of Roxie Wigger.	5.6	1.0	0	0
Prepare for, and conduct deposition of Diana McChristian (volume 2).	18	16	12	4.0
Prepare page line summary of volume 2 of McChristian deposition.	6.4	0	0	0
Prepare for, and conduct deposition of Greg Campbell.	6.5	6.5	6.5	0
Prepare page line summary of deposition of Greg Campbell.	3.5	0	0	0
Sub-total	111.2	90.3	51.5	59.5
9. FIRST MEDIATION ATTEMPT				
Legal research re: each cause of action and basis for same in connection with mediation briefing and presentation	13.4	10.0	5.5	2.5
Legal research re: defenses raised or possibly raised by defendant in connection with same	12.4	8.5	4.2	3.0
Legal research re: class certification issues anticipated to be raised by defense at mediation.	14.6	8.6	3.5	5.3
Coordinate with Dr. Shapiro concerning his findings, conclusions and extrapolation based upon the data and databases produced to date	1.5	5.0	0	0
Prepare first draft of comprehensive mediation brief. (22 pages single spaced) (Marlin and Bradley)	17.3	4.5	0	0
Review first draft of mediation brief and provide advice and input re: same. (Saltzman and others)	5.0	0	2.8	1.5
Finalize confidential mediation brief.	12.4	3.4	0	0
Meet with plaintiffs' counsel and plaintiffs prior to mediation to discuss mediation strategy.	6.5	6.5	7.5	0
Travel to and from San Francisco to attend mediation with Mediator Mark Rudy. (7 attorneys total from the 4 firms)	40	40	20	35
Sub-total	123.1	86.5	43.5	47.3